

## **REMARKS**

This is a response to the Office Action dated October 30, 2003. Claims 1-22 are pending in the application. Claims 1-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,786,584 (“Button”) in view of WO 98/17088 (“Loikkanen”).

The rejections are respectfully traversed, and are discussed below in connection with the various claims. No new matter has been added. Reconsideration of the application is respectfully requested in light of the following remarks.

### **I. REJECTIONS UNDER 35 U.S.C. § 103(a)**

#### **A. Independent Claims 1, 8, 15, and 22**

Independent claim 1 was rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Button in view of Loikkanen. Independent claim 1 relates to an apparatus for covering a glucose meter. The glucose meter has a front surface opposed to a back surface, and an edge surface connecting the front surface to the back surface. The apparatus includes a frame adapted to receive the glucose meter. The frame is adapted to surround a substantial portion of the edge surface and forms an opening for viewing at least a portion of the front surface of the glucose meter. The apparatus also includes at least one attachment member connected with the frame and adapted to removably connect the frame with the glucose meter.

Independent claim 8 was also rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Button in view of Loikkanen. Independent claim 8 relates to an apparatus for covering a glucose meter, where the glucose meter has a front surface opposed to a back surface, an edge surface connecting the front surface to the back surface, and where the front surface includes a screen for viewing information. The apparatus includes a frame adapted to receive the glucose meter, where the frame is adapted to cover a substantial portion of the front surface and a small portion of the back surface. The apparatus also includes at least one attachment member connected with the frame and adapted to removably connect the frame with the glucose meter.

Independent claim 15 was also rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Button in view of Loikkanen. Independent claim 15 relates to a glucose meter with a front surface opposed to a back surface and an edge surface connecting the front surface to the back surface. The glucose meter includes a screen located on the front surface for viewing information and a cover removably connected with the glucose meter. The cover includes a frame adapted to receive the glucose meter. The frame is adapted to surround a portion of the edge surface and includes at least one attachment member connected with the frame. The attachment member is adapted to removably connect the frame with the glucose meter and contacts a small portion of the back surface of the meter.

Claim 22, which has been rewritten in independent form, was also rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Button in view of Loikkanen. Independent claim 22 relates to a method for distributing disposable cartridges for a glucose meter, the method comprising the step of packaging the apparatus of claim 1 with at least one disposable cartridge.

Button discloses “[a] device for reading the labeled contents of an insulin container and then providing an audible message informing the user of the labeled contents. The device includes a recessed surface, such as a cylindrical well, into which an insulin container is insertable by a vision impaired person. An optical scanner or reader reads a code furnished as part of the labeling on the inserted insulin container. A microcomputer compares the read code to known code patterns and a speech output is generated as to the type of insulin within the container. The speech output is broadcast over a speaker so as to be audible to a listener. The device may be integrated into a blood glucose sensor, or furnished in a unit that may assemble to an existing blood glucose sensor.” *See* Button, Abstract.

Loikkanen discloses a “[r]eplaceable decorative part made of plastic to be fitted onto the case or frame of an electric appliance, such as a hand-held telephone, which decorative part is a film-like additional covering intended to be fitted onto the case or frame and so designed that it covers substantially the entire case or frame and corresponds to its shape, said additional covering being provided with a desired patterning/colouring, and which additional covering comprises a surface fastening, such as a close fit between its sides and

the corresponding parts of the case or frame and/or a glue or sticker surface in at least part of the lower surface of the additional covering, to allow the additional covering to be attached to the case or frame without any holes or equivalent made for the attachment of the decorative part.” *See* Loikkanen, Abstract.

Applicants submit that there is no motivation to combine the teachings of Button and Loikkanen. Button discloses an audio feedback device that can be assembled onto or integrated with a medical device, allowing a visually impaired person to independently determine the contents of an insulin container. *See* Button, Col. 2, ll. 5-8, 15-17. Loikkanen, however, discloses a replaceable decorative cover to be fitted onto the case or frame of general consumer electronics, such as hand-held telephones or computer mice. *See* Loikkanen, p. 1, ll. 6-8, p. 6 ll. 7-10.

One of ordinary skill in the art would not look to Loikkanen to modify the teachings of Button. As the Examiner indicated, Button does not teach a cover that is detachable with the main glucose monitor. While Loikkanen does disclose a detachable cover, general consumer hand-held electronics such as telephones are not analogous art to medical devices. Button discloses an apparatus for modifying a blood glucose monitor to provide audio feedback for a visually impaired diabetic. *See* Button, Col. 3, ll. 5-6. The purpose of this modification is unrelated to the purpose of the replaceable, decorative cover disclosed in Loikkanen.

It would therefore not be appropriate to modify the medical device in Button with the cover of Loikkanen for several reasons. First, the cover disclosed in Button is a semi-permanent retrofit for a blood glucose monitor. *See* Button, Col. 4, ll. 21-23. As the end-users for the Button cover are visually impaired, once assembled, the cover would not generally be detached from the glucose monitor. *See* Button, Col. 2, ll. 5-7. The friction fit or sticker glue attachment mechanisms disclosed in Loikkanen, on the other hand, allow a telephone user to remove the cover in a few seconds. *See* Loikkanen, p. 4, ll. 25, 31, p. 5, ll. 17-18. If the Loikkanen attachment mechanisms were applied to the cover in Button, the visually impaired user could accidentally dislodge the cover.

Second, the visually impaired user in Button would be unable to use a decorative cover to color coordinate a glucose monitor with his or her clothes. *See* Loikkanen, pp. 2-3,

ll. 36, 1-2. In short, Button and Loikkanen disclose different types of covers, serving different functions and intending to overcome different problems for unrelated devices. As a result, one of ordinary skill in the art would not combine the replaceable decorative plastic cover in Loikkanen with the medical device in Button.

Accordingly, Applicants request that the Examiner withdraw this rejection of independent claims 1, 8, 15, and 22.

**B. Dependent Claims 2-7, 9-14, and 16-21**

Dependent claims 2-7, 9-14, and 16-21 were also rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Button in view of Loikkanen. Dependent claims 2-7, 9-14, and 16-21 should be allowed for the reasons set out above for claims 1, 8, and 15, the claims from which they depend.

Further, Applicants submit that claims 2-4, 10-11, and 18-20 are not obvious in view of the combination of Button and Loikkanen, as these references, alone or in combination, fail to disclose all of the elements of Applicants' claims. For example, although Button teaches an audio feedback device that can be assembled onto a glucose meter (*See* Button Col. 2, ll. 5-8), Button fails to teach an interchangeable faceplate removably connected with the frame and received by the opening in the frame, as is claimed in claims 2-3 and 18-20. Loikkanen also fails to teach or disclose an interchangeable faceplate removably connected with the frame. While Loikkanen discloses interchangeable covers, Loikkanen's covers are one piece designs without interchangeable faceplates removably connected with the frame. *See* Loikkanen, p. 5, ll. 23-35. Loikkanen further teaches away from the use of interchangeable faceplates, discussing weaknesses with the fastening structures and limitations of their appearances. *See* Loikkanen, p. 2, ll. 4-14. An interchangeable faceplate removably connected with the frame provides protection, improved appearance, and easily accessible information for a glucose meter. *See* Application, ¶ 4. In the event of damage, a desire for a new appearance, or updated information, the faceplate can simply be replaced.

Button also fails to teach a frame that surrounds a slot for receiving a disposable cartridge located on the edge surface of the glucose meter, as claimed in claim 4. While Button discloses a frame that extends outward from the lowermost edge of a slot (*See e.g.*

Button, Figs. 1, 3, 7, 8), the frame does not surround the slot on the edge surface. In Button, rather than protect the glucose meter, the frame aids a visually impaired user to align a test strip into a slot. *See* Button, Col. 4, ll. 56-60. Loikkanen also fails to teach or disclose a frame that surrounds a slot for receiving a disposable cartridge on the edge surface of a glucose meter. Although Loikkanen has apertures for a power supply and an antenna (*See* Loikkanen, p. 3, ll. 34-37), it would not be obvious for one of ordinary skill in the art to combine Loikkanen with Button because, as discussed above, medical devices and general consumer hand-held electronics are not analogous art.

Finally, neither Button nor Loikkanen disclose the element of a gripping member connected with the frame, as claimed in claims 10 and 11. Applicants respectfully disagree with the Examiner's position that any of the sides in Button can be a gripping member. While the glucose meter in Button is a handheld device, the assembled device with the glucose meter and audio-feedback cover is not. *See* Button, Col. 4, ll. 46-47 ("Rubber standoffs (not shown) on the base unit bottom surface provide stability during use"). Although Button uses tactile ridges to aid the visually impaired users with alignment (*See* Button, Col. 4, ll. 63-64, Col. 10, ll. 13-14), both Button and Loikkanen lack any reference to a bump, ridge, rubber bump, rubber ridge, rubber member, or surface covered with adhering materials to aid with grip. *See* Application, ¶ 29.

Accordingly, Applicants therefore request that the Examiner withdraw this rejection of these claims.

## **II. NEW CLAIMS**

With this response, new claims 23-31 have been added. Support for these claims may be found in the specification. No new matter has been added. New claims 23-31 should be allowed over the cited references for the reasons set out above for claims 1, 8, and 15, the claims from which they depend.

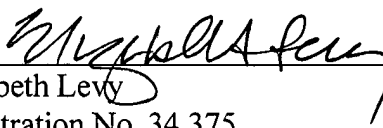
Accordingly, Applicants request that the Examiner allow new claims 23-31.

The Commissioner is authorized to charge any deficiency or to credit any over payment to Bayer Corporation's Account No. 13-3375(MSE #2635). A duplicate copy of this page is enclosed.

### CONCLUSION

Each of the rejections in the Office Action dated October 30, 2003 has been addressed and no new matter has been added. Applicants submit that all of the pending claims are in condition for allowance and notice to this effect is respectfully requested. The Examiner is invited to call the undersigned if it would expedite the prosecution of this application.

Respectfully submitted,

  
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